

COMMONWEALTH OF KENTUCKY  
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

APPLICATION OF KENTUCKY RSA #9-10, INC. FOR A	)	
CERTIFICATE OF PUBLIC CONVENIENCE AND NECESSITY	)	CASE NO.
TO CONSTRUCT A CELL SITE OFF OF ADAMS DRIVE IN	)	96-035
PIKEVILLE, PIKE COUNTY, KENTUCKY	)	

O R D E R

On February 20, 1996, Kentucky RSA #9-10, Inc. filed an application seeking a Certificate of Public Convenience and Necessity to build and operate a cellular radio telecommunications system for Rural Service Area No. 9 ("RSA No. 9"). RSA No. 9 includes Elliott, Floyd, Johnson, Lawrence, Magoffin, Martin, Morgan, and Pike counties. Kentucky RSA #9-10, Inc. requested authorization to construct a cell site in Pike County. Kentucky RSA #9-10, Inc. was previously granted authority to operate a cellular radio telecommunications system in RSA No. 9 in Case No. 94-385.<sup>1</sup>

By Order dated April 8, 1996, the Commission approved a cell site consisting of a 400-foot or less guyed antenna tower to be located off of Adams Drive in Pikeville, Pike County, Kentucky ("the Pikeville cell site"). The coordinates for the Pikeville cell site are North Latitude 37° 27' 54.9" by West Longitude 82° 32' 52.5".

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<sup>1</sup> Case No. 94-385, The Joint Application of Telephone and Data Systems, Inc., Kentucky RSA 9-10, Inc. and Alpha Cellular Telephone Company For Approval of the Acquisition by Telephone and Data Systems, Inc. of Those Assets of Alpha Cellular Telephone Company Constituting the Non-Wireline Cellular Operations in Kentucky Rural Service Areas 9 and 10, the Transfer of Such Assets to Kentucky RSA 9-10, Inc. and Establishment of Initial Tariffs Describing Conditions of Service.

On June 7, 1996, Kentucky RSA #9-10, Inc. filed a motion to amend the certificate granted in this case. Specifically, Kentucky RSA #9-10, Inc. requests approval to construct a 250-foot or less self-supporting antenna tower in lieu of the previously authorized 400-foot guyed tower.

In support of its motion, Kentucky RSA #9-10, Inc. has provided amended information regarding the structure of the tower, safety measures, and antenna design criteria for the Pikeville cell site. Based upon the information, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the revised plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the Pikeville cell site's construction is exempt from local zoning ordinances; however, Kentucky RSA #9-10, Inc. notified the Pikeville City Manager of the pending construction. Kentucky RSA #9-10, Inc. has filed amended applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the Pikeville cell site. The KAZC has approved the Pikeville site, while the FAA application is pending.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, Kentucky RSA #9-10, Inc. should notify the Commission if it does not use this antenna tower to provide cellular radio telecommunications services in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to

consider the proper practices, including removal of the unused antenna tower, which should be observed by Kentucky RSA #9-10, Inc.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that the motion of Kentucky RSA #9-10, Inc. to amend its Certificate of Public Convenience and Necessity to construct and operate the Pikeville cell site in RSA No. 9 should be granted.


IT IS THEREFORE ORDERED that:

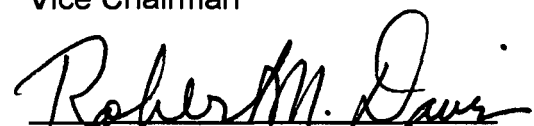
1. The Certificate of Public Convenience and Necessity granted to Kentucky RSA #9-10, Inc. on April 8, 1996 be and it hereby is amended to authorize the construction and operation of a 250-foot self-supporting tower.
2. Kentucky RSA #9-10, Inc. shall file a copy of the final decision regarding the pending FAA application for this cell site construction within 10 days of receiving this decision.
3. Kentucky RSA #9-10, Inc. shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 19th day of July, 1996.

PUBLIC SERVICE COMMISSION

  
Chairman

  
Vice Chairman

  
Commissioner

ATTEST:

  
Executive Director